

# **HOW TO COLLECT A JUDGMENT**

## **SMALL CLAIMS**

### **You will have to collect your money yourself if you win in small claims court.**

The court will not collect the judgment award for you. You must wait at least 30 days from the date of the *Entry of Judgment* to collect if the defendant appeared in court, and at least 30 days if you have a default judgment. If the 30<sup>th</sup> day falls on a weekend or holiday, the losing party has one additional work day to file their appeal. After this waiting period you need to file a *Memorandum of Costs* and the *Writ of Execution* with the court. There is a \$7.00 fee for issuance of the *Writ of Execution*. You will need to mail a copy of the *Memorandum of Costs* to the opposing side prior to filing it with the court. This document will include after judgment costs, such as the court fee of \$7.00 to issue the *Writ of Execution* and the sheriff's or process server's for serving the *Writ of Execution*. If the 30<sup>th</sup> day falls on a weekend or holiday, the losing party has one additional work day to file their appeal. After this waiting period you need to file a *Memorandum of Costs* and the *Writ of Execution* with the court. There is a \$7.00 fee for issuance of the *Writ of Execution*.

### **To add your costs to the judgment.**

Obtain the *Memorandum of Costs* form from the small claims clerk of the SHARP Center. Fill it out and return it to the clerk and mailing a copy to the losing party. After you collect your judgment, you must file a *Satisfaction of Judgment* from with the clerk.

**The following are some things you can do to try to collect on your judgment.**

If the losing party who owes you money, called the judgment debtor, refuses to pay:

**1. Garnish the debtor's wages.**

A wage garnishment orders the debtor's employer to give you part of the debtor's wages until the debt is paid.

**2. Levy upon the debtor's bank account.**

This means that money will be taken from the debtor's bank account to pay the judgment.

**3. Record an *Abstract of Judgment***

An *Abstract of Judgment* puts a lien on any land, house, or other buildings the debtor owns in the county where the abstract is recorded. Record the abstract in all counties where the debtor may own property. If the property is sold, the debt will be paid out of the proceeds of the sale.

An *Abstract of Judgment* will also put a lien on property the debtor may buy in the future and prevent the debtor from refinancing any property until the debt is paid.

**4. Have the sheriff do a till tap.**

If the debtor is a business with a cash register, the sheriff can go to the business and take enough money out of the register to pay the judgment and his fee. If there is not enough money in the register to pay the judgment, you will have to pay another fee each time the sheriff goes back.

**5. Put a "keeper" in the debtor's business.**

If the debtor is a business, the sheriff will, for a fee, remain in the debtor's business, and take all the funds that come in until the judgment is paid. The keeper can collect cash, checks, and bank credit card drafts. If the debtor closes the business while the sheriff is there, you will have to pay another fee each time the sheriff goes back.

**6. Hold a judgment debtor hearing.**

A judgment debtor hearing requires the debtor to come to court and answer your questions about his or her salary, bank accounts, property, and anything else that could be used to pay the judgment. If you wish, you can subpoena bank books, property deeds, paycheck stubs, etc., before you hold the hearing.

**7. Suspend the debtor's driver's license.**

If you won a judgment for \$500 or less in an auto accident case, and the judgment is not paid within 90 days after the judgment becomes final, you can have the debtor's driver's license suspended for 90 days. Get Form DL 17 from the DMV. There is a fee.

**PLEASE REFER TO CALIFORNIA CODE OF CIVIL PROCEDURES FOR GUIDANCE IN THE ABOVE COLLECTION PROCESSES.**